

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Frances Patricia Batin, M.D.

Case No. 800-2014-008678

**Physician's and Surgeon's
Certificate No. G 66244**

Respondent

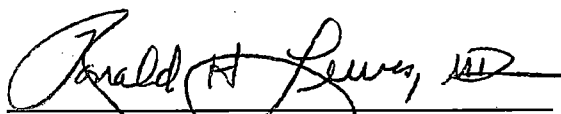
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 12, 2018.

IT IS SO ORDERED: September 13, 2018.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 BENETH A. BROWNE
Deputy Attorney General
4 State Bar No. 202679
California Department of Justice
5 300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **FRANCES PATRICIA BATIN, M.D.**
14 **11370 Anderson Street, Suite #3600**
Loma Linda, CA 92354

15 **Physician's and Surgeon's Certificate No. G**
16 **66244**

17 Respondent.

Case No. 800-2014-008678

OAH No. 2017071066

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne,
25 Deputy Attorney General.

26 2. Frances Patricia Batin, M.D. (Respondent) is represented in this proceeding by
27 attorney E. Nathan Schilt, whose address is: 11165 Mountain View, Suite 121, Loma Linda, CA
28 92354.

3. On or about July 6, 1989, the Board issued Physician's and Surgeon's Certificate No. G 66244 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-008678, and will expire on September 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-008678 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 16, 2017. Respondent timely filed a Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-008678 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-008678. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2014-008678 and that she has thereby subjected her license to disciplinary action.

1 10. Respondent agrees that if she ever petitions for early termination or modification of
2 probation, or if the Board ever petitions for revocation of probation, all of the charges and
3 allegations contained in Accusation No. 800-2014-008678 shall be deemed true, correct and fully
4 admitted by respondent for purposes of that proceeding or any other licensing proceeding
5 involving respondent in the State of California.

6 11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
7 discipline and her to be bound by the Board's probationary terms as set forth in the Disciplinary
8 Order below.

9 CIRCUMSTANCES IN MITIGATION

10 12. Respondent has never been the subject of any disciplinary action. Respondent has
11 admitted responsibility at an early stage in the proceedings.

12 CONTINGENCY

13 13. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or her counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw her agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 15. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 66244 issued
3 to Respondent FRANCES PATRICIA BATIN, M.D. is revoked. However, the revocation is
4 stayed and Respondent is placed on probation for four (4) years on the following terms and
5 conditions.

6 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
7 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
8 for its prior approval educational program(s) or course(s) which shall not be less than 20 hours
9 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
10 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
11 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
12 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
13 completion of each course, the Board or its designee may administer an examination to test
14 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 45
15 hours of CME of which 20 hours were in satisfaction of this condition.

16 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective
17 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
18 advance by the Board or its designee. Respondent shall provide the approved course provider
19 with any information and documents that the approved course provider may deem pertinent.
20 Respondent shall participate in and successfully complete the classroom component of the course
21 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
22 complete any other component of the course within one (1) year of enrollment. The prescribing
23 practices course shall be at Respondent's expense and shall be in addition to the Continuing
24 Medical Education (CME) requirements for renewal of licensure.

25 A prescribing practices course taken after the acts that gave rise to the charges in the
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the course would have
28 been approved by the Board or its designee had the course been taken after the effective date of

1 this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after successfully completing the course, or not later than
4 15 calendar days after the effective date of the Decision, whichever is later.

5 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
6 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
7 advance by the Board or its designee. Respondent shall provide the approved course provider
8 with any information and documents that the approved course provider may deem pertinent.
9 Respondent shall participate in and successfully complete the classroom component of the course
10 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
11 complete any other component of the course within one (1) year of enrollment. The medical
12 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
13 Medical Education (CME) requirements for renewal of licensure.

14 A medical record keeping course taken after the acts that gave rise to the charges in the
15 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
16 or its designee, be accepted towards the fulfillment of this condition if the course would have
17 been approved by the Board or its designee had the course been taken after the effective date of
18 this Decision.

19 Respondent shall submit a certification of successful completion to the Board or its
20 designee not later than 15 calendar days after successfully completing the course, or not later than
21 15 calendar days after the effective date of the Decision, whichever is later.

22 4. SOLO PRACTICE. Respondent is not prohibited from engaging in solo practice
23 while practicing medicine with the Loma Linda University Faculty Medical Group.

24 If Respondent ceases to practice medicine with the Loma Linda University Faculty Medical
25 Group, Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo
26 practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space
27 with another physician but is not affiliated for purposes of providing patient care, or 2)
28 Respondent is the sole physician practitioner at that location.

1 If, during the course of the probation, the Respondent's practice setting changes and the
2 Respondent is no longer practicing in the setting contemplated in this Decision, the Respondent
3 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
4 If Respondent fails to establish a practice with another physician or secure employment in an
5 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
6 shall receive a notification from the Board or its designee to cease the practice of medicine within
7 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
8 appropriate practice setting is established."

9 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
10 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
11 Chief Executive Officer at every hospital where privileges or membership are extended to
12 Respondent, at any other facility where Respondent engages in the practice of medicine,
13 including all physician and locum tenens registries or other similar agencies, and to the Chief
14 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
15 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
16 calendar days.

17 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

18 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
19 NURSES. Respondent is not prohibited from supervising physician assistants and advanced
20 practice nurses while practicing medicine with the Loma Linda University Faculty Medical
21 Group. If Respondent ceases to practice medicine at the Loma Linda University Faculty Medical
22 Group, Respondent is prohibited from supervising physician assistants and advanced practice
23 nurses.

24 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
25 governing the practice of medicine in California and remain in full compliance with any court
26 ordered criminal probation, payments, and other orders.

27 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
28 under penalty of perjury on forms provided by the Board, stating whether there has been

1 compliance with all the conditions of probation.

2 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
3 of the preceding quarter.

4 9. GENERAL PROBATION REQUIREMENTS.

5 Compliance with Probation Unit

6 Respondent shall comply with the Board's probation unit.

7 Address Changes

8 Respondent shall, at all times, keep the Board informed of Respondent's business and
9 residence addresses, email address (if available), and telephone number. Changes of such
10 addresses shall be immediately communicated in writing to the Board or its designee. Under no
11 circumstances shall a post office box serve as an address of record, except as allowed by Business
12 and Professions Code section 2021(b).

13 Place of Practice

14 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
15 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
16 facility.

17 License Renewal

18 Respondent shall maintain a current and renewed California physician's and surgeon's
19 license.

20 Travel or Residence Outside California

21 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
22 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
23 (30) calendar days.

24 In the event Respondent should leave the State of California to reside or to practice,
25 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
26 departure and return.

27 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
28 available in person upon request for interviews either at Respondent's place of business or at the

1 probation unit office, with or without prior notice throughout the term of probation.

2 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
3 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
4 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
5 defined as any period of time Respondent is not practicing medicine as defined in Business and
6 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
7 patient care, clinical activity or teaching, or other activity as approved by the Board. If
8 Respondent resides in California and is considered to be in non-practice, Respondent shall
9 comply with all terms and conditions of probation. All time spent in an intensive training
10 program which has been approved by the Board or its designee shall not be considered non-
11 practice and does not relieve Respondent from complying with all the terms and conditions of
12 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
13 on probation with the medical licensing authority of that state or jurisdiction shall not be
14 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
15 period of non-practice.

16 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
17 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
18 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
19 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
20 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

21 Respondent's period of non-practice while on probation shall not exceed two (2) years.

22 Periods of non-practice will not apply to the reduction of the probationary term.

23 Periods of non-practice for a Respondent residing outside of California will relieve
24 Respondent of the responsibility to comply with the probationary terms and conditions with the
25 exception of this condition and the following terms and conditions of probation: Obey All Laws;
26 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
27 Controlled Substances; and Biological Fluid Testing.

28 12. COMPLETION OF PROBATION. Respondent shall comply with all financial

1 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
2 completion of probation. Upon successful completion of probation, Respondent's certificate shall
3 be fully restored.

4 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
5 of probation is a violation of probation. If Respondent violates probation in any respect, the
6 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
7 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
8 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
9 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
10 the matter is final.

11 14. LICENSE SURRENDER. Following the effective date of this Decision, if
12 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
13 the terms and conditions of probation, Respondent may request to surrender his or her license.
14 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
15 determining whether or not to grant the request, or to take any other action deemed appropriate
16 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
17 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
18 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
19 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
22 with probation monitoring each and every year of probation, as designated by the Board, which
23 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
24 California and delivered to the Board or its designee no later than January 31 of each calendar
25 year.

26 ACCEPTANCE

27 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
28 discussed it with my attorney, E. Nathan Schilt. I understand the stipulation and the effect it will

1 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Medical Board of California.

4
5 DATED: 4/3/2018

Frances Patrin Batin MD
FRANCES PATRICIA BATIN, M.D.
Respondent

7 I have read and fully discussed with Respondent FRANCES PATRICIA BATIN, M.D. the
8 terms and conditions and other matters contained in the above Stipulated Settlement and
9 Disciplinary Order. I approve its form and content.

10
11 DATED: 4/3/18

E. Nathan Schilt
E. NATHAN SCHILT
Attorney for Respondent

13
14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Medical Board of California.

17 Dated: 8/16/18

Respectfully submitted,

18 XAVIER BECERRA
Attorney General of California
19 E. A. JONES III
Supervising Deputy Attorney General

20
21 BENETH A. BROWNE
22 Deputy Attorney General
23 Attorneys for Complainant

24 LA2017504177
62762379
25
26
27
28

Exhibit A

Accusation No. 800-2014-008678

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 800-2014-008678

13 **Frances Patricia Batin, M.D.**
14 **11370 Anderson Street, Suite #3600**
Loma Linda, CA 92354

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 66244,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about July 6, 1989, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 66244 to Frances Patricia Batin, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on September 30, 2017, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2229, subdivision (a), of the Code states:

"Protection of the public shall be the highest priority for the Division of Medical Quality,^[1] the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority."

5. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"..."

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

7. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not

¹ Pursuant to Business and Professions Code section 2002, the "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

1 limited to, the following:

2 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
3 violation of, or conspiring to violate any provision of this chapter.

4 “(b) Gross negligence.

5 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
6 omissions. An initial negligent act or omission followed by a separate and distinct departure from
7 the applicable standard of care shall constitute repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
9 for that negligent diagnosis of the patient shall constitute a single negligent act.

10 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
11 constitutes the negligent act described in paragraph (1), including, but not limited to, a
12 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
13 applicable standard of care, each departure constitutes a separate and distinct breach of the
14 standard of care.

15 “(d) Incompetence.

16 “(e) The commission of any act involving dishonesty or corruption which is substantially
17 related to the qualifications, functions, or duties of a physician and surgeon.

18 “(f) Any action or conduct which would have warranted the denial of a certificate.

19 “. . .”

20 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
21 participate in an interview by the board. This subdivision shall only apply to a certificate holder
22 who is the subject of an investigation by the board.”

23 8. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
24 adequate and accurate records relating to the provision of services to their patients constitutes
25 unprofessional conduct.”

26 9. Section 2241 of the Code states:

27 “(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs,
28 including prescription controlled substances, to an addict under his or her treatment for a purpose

1 other than maintenance on, or detoxification from, prescription drugs or controlled substances.

2 “(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or
3 prescription controlled substances to an addict for purposes of maintenance on, or detoxification
4 from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections
5 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this
6 subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer
7 dangerous drugs or controlled substances to a person he or she knows or reasonably believes is
8 using or will use the drugs or substances for a nonmedical purpose.

9 “(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also
10 be administered or applied by a physician and surgeon, or by a registered nurse acting under his
11 or her instruction and supervision, under the following circumstances:

12 “(1) Emergency treatment of a patient whose addiction is complicated by the presence of
13 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

14 “(2) Treatment of addicts in state-licensed institutions where the patient is kept under
15 restraint and control, or in city or county jails or state prisons.

16 “(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety
17 Code.

18 “(d)(1) For purposes of this section and Section 2241.5, “addict” means a person whose
19 actions are characterized by craving in combination with one or more of the following:

20 “(A) Impaired control over drug use.

21 “(B) Compulsive use.

22 “(C) Continued use despite harm.

23 “(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due
24 to the inadequate control of pain is not an addict within the meaning of this section or Section
25 2241.5.”

26 **FIRST CAUSE FOR DISCIPLINE**

27 **(Gross Negligence)**

28 10. Respondent Frances Patricia Batin, M.D. is subject to disciplinary action under

1 section 2234, subdivision (b), of the Code in that she engaged in gross negligence in the care and
2 treatment of her patient. The circumstances are as follows:

3 11. On or around June 28, 2010 and August 23, 2010, patient A.A., a 40 year old woman,
4 had her initial visits with Respondent at Loma Linda University Healthcare to establish primary
5 care. Patient A.A. had multiple medical issues including: recurrent venous thrombosis;
6 Immunoglobulin G (IgG) deficiency; chronic obstructive pulmonary disease (COPD); asthma;
7 peptic ulcers; depression associated with anxiety; obesity; chronic back pain; joint pain involving
8 knees, hips and shoulders; chronic pain syndrome, and; recent pains from MRSA² bacterial sepsis
9 including chest pains from her central catheter site. Respondent completed a full history and
10 physical examination and laboratory review. She made referrals to dermatology, general surgery,
11 infectious disease and pulmonary consultants for post-hospitalization follow-ups. Before her first
12 visit with Respondent, patient A.A. had been taking a high dosage of narcotics including
13 hydrocodone (Norco), hydromorphone (Dilaudid) and morphine (MS Contin). Her morphine
14 equivalent dosage (MED) of opiates was over 120 mg per day. Respondent provided her refills of
15 hydrocodone 240 tablets, hydromorphone of unknown quantity and morphine 30 mg at 60 tablets.
16 Respondent also prescribed her alprazolam (Xanax), a benzodiazepine, for generalized anxiety.
17 Respondent did not document reviewing any prior medical records. She did not document any
18 further evaluation plan for patient A.A.'s chronic pain syndrome.

19 12. On or around December 7, 2010, at a clinic visit, Respondent documented changing
20 patient A.A.'s pain regimen to oxycodone (Oxycontin) twice daily for severe pain, morphine
21 twice daily for lesser pain and hydrocodone for breakthrough pain. Respondent documented the
22 indication for pain as being chronic joint pain. Respondent did not document any further
23 evaluation or consultation plan for her pain syndrome. Respondent did not order x-rays. Patient
24 A.A. continued to see Respondent every 1 to 2 months for follow up and medication refills.

25 13. On or around May 5, 2011 and June 20, 2011, at clinic visits, Respondent
26 documented the indication for pain as being chronic pain syndrome and myalgia, respectively.

27 ² MRSA is an abbreviation for Methicillin-resistant Staphylococcus aureus, a type of staph
28 bacteria that is resistant to many antibiotics.

1 Respondent continued the pain regimen of morphine sulfate 30 mg twice daily, oxycodone 80 mg
2 twice daily for severe pain and hydrocodone for breakthrough pain. No quantity was documented
3 in patient A.A.'s medical record. Respondent refilled a high total daily dose of 14 mg to 16 mg
4 of alprazolam for the patient's anxiety disorder.

5 14. On or around August 4, 2011, Respondent prescribed patient A.A. medication for
6 insomnia including zolpidem (Ambien), a sleeping medication that is a controlled substance, and
7 trazodone 50 mg. Respondent continued prescribing patient A.A. narcotic pain medications.
8 Respondent documented the indication for pain medication as joint pains.

9 15. On or around October 14, 2011, over a year after her first visits with Respondent,
10 patient A.A. received an MRI of her knees.

11 16. On or about November 1 and November 29, 2011, Respondent documented the
12 indication for pain medication as joint pains and also chronic low back pains. No imaging study
13 or work-up was planned.

14 17. On or around December 28, 2011, Respondent saw patient A.A. at a visit for post
15 hospitalization and surgical follow up. She had been hospitalized for acute pelvic pains due to
16 endometriosis and had gynecologic surgery. Respondent prescribed patient A.A. refills for her
17 pain regimen which was: hydromorphone 8 mg; morphine sulfate 30 mg three times daily; and
18 hydrocodone.

19 18. On or around April 24, 2012, patient A.A. was found to have a soft tissue mass in her
20 left pelvis causing left leg pains and back pains. A subsequent biopsy showed no cancer.

21 19. On or around July 9, 2012, patient A.A. was involved in a car accident and was
22 hospitalized for respiratory failure.

23 20. On or around August 3 and August 20, 2012, Respondent saw patient A.A. at a visit
24 for post hospitalization follow up and pain medication renewal. She received hydromorphone 24
25 mg daily; hydrocodone 80 mg daily; and fentanyl 50 mcg per hour patches. Respondent
26 continued prescribing her a heavy dose of alprazolam 14 to 16 mg daily. An x-ray of the knee
27 showed cartilage degeneration and patellar chondromalacia.

28 21. On or around November 29, 2012, Respondent made an orthopedic referral for

1 evaluation of patient A.A.'s knee pains. Additionally, in or around November of 2012, patient
2 A.A. reported an accident in which her foot was run over by a shopping cart. Respondent
3 referred her to podiatry surgeons for evaluation. Patient A.A. continued to see Respondent for
4 pain medication refills.

5 22. On or around January 11, 2013, patient A.A. requested an increase in her
6 benzodiazepine dosage for anxiety. Respondent offered consultation with psychiatry staff but
7 patient A.A. declined.

8 23. In or about most of 2013, Respondent prescribed patient A.A. the same pain
9 medication regimen including hydromorphone, Norco and fentanyl patches at 75 mcg per hour.

10 24. In or about August of 2013, CURES³ reflects that in addition to her usual pain
11 regimen, patient A.A. received hydromorphone prescriptions from two different doctors totaling
12 135 tablets.

13 25. In or about October of 2013, CURES reflects that in addition to prescriptions from
14 Respondent, patient A.A. received hydrocodone prescriptions from two different doctors totaling
15 460 tablets.

16 26. During the majority of 2014, patient A.A. was hospitalized multiple times for
17 Coumadin toxicity with bleeding and MRSA pneumonia. She became dependent on home
18 oxygen therapy and required supplemental oxygen all the time for her severe COPD. Respondent
19 continued to refill her pain medication regimen of hydrocodone 80 mg daily, hydromorphone 24
20 mg daily and fentanyl patches 75 mcg per hour. Respondent continued to prescribe her
21 alprazolam 2 mg tablets, requiring a total of 220 tablets per month.

22 27. Respondent's medical records for patient A.A. reflect no urine toxicology testing of
23 patient A.A. The medical records reflect no CURES database query between 2012 and 2014.
24 The medical records reflect no signed informed consent. The medical records reflect no signed
25 pain care management agreement.

26 28. Respondent committed gross negligence in the care and treatment of patient A.A.,
27

28 ³ CURES is the California Prescription Drug Monitoring Program.

1 individually or collectively, because of (1) inadequate evaluation of her chronic pains before
2 starting opiates, (2) inadequate management of pains with non-opiate methods, (3) excessive
3 narcotics dosage, (4) lack of proper monitoring of opiate usage and its effects, (5) lack of
4 informed consent and pain care agreement, and (6) the dangerous combination of high dosages of
5 opiate medications and benzodiazepines.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

8 29. Respondent Frances Patricia Batin, M.D. is subject to disciplinary action under
9 section 2234, subdivision (c), of the Code in that she engaged in repeated negligent acts in the
10 care and treatment of three patients. The circumstances are as follows:

11 **Patient A.A.**

12 30. The facts and circumstances alleged in paragraphs 11 through 27 above are
13 incorporated here as if fully set forth.

14 31. Respondent was negligent in the care and treatment of patient A.A., individually or
15 collectively, because of (1) inadequate evaluation of her chronic pains before starting opiates, (2)
16 inadequate management of pains with non-opiate methods, (3) excessive narcotics dosage, (4)
17 lack of proper monitoring of opiate usage and its effects, (5) lack of informed consent and pain
18 care agreement, and (6) the dangerous combination of high dosages of opiate medications and
19 benzodiazepines.

20 **Patient D.B.**

21 32. In or around February of 2014, patient D.B., a female with a history of bipolar
22 disorder and generalized anxiety, visited Respondent to establish primary care. Patient D.B. took
23 psychiatric medications including sertraline (Zoloft), quetiapine (Seroquel) and alprazolam
24 (Xanax). She was a bus driver and reportedly was unable to work at her position without pain
25 medication she was receiving to control her chronic history of bilateral shoulder pains. She took
26 4 to 6 tablets (20 to 30 mg) of hydrocodone per day that she obtained thorough radiological and
27 orthopedic evaluations. She had already obtained multiple joint injections and done physical
28 therapy. Respondent continued prescribing patient D.B. the medications she had received,

1 including alprazolam and opiates, for almost two years.

2 33. Respondent did not perform an opiate risk stratification of the patient or note that she
3 was at high risk for opiate abuse due to her extensive psychiatric history. Although this would
4 require her to be closely monitored for aberrant behaviors with regular urine toxicology testing
5 and CURES database queries, Respondent did not obtain urine toxicology testing from patient
6 D.B. and she did not document consulting the CURES database.

7 34. Despite concurrent use of alprazolam and opiates increasing the risks of overdose
8 death fourfold compared with opiate prescription alone, Respondent did not taper patient D.B. off
9 of either medication. She did not consult with psychiatric staff for cognitive behavior therapy to
10 assist in tapering her off of alprazolam. She did not offer to prescribe her other antidepressants
11 and non-benzodiazepine medications approved for anxiety.

12 35. Respondent's chart for patient D.B. contained no documentation of any discussion
13 with patient D.B. about the risks and benefits of narcotic pain medication. The chart contained no
14 signed informed consent and no signed pain care agreement.

15 36. Respondent was negligent in her care and treatment of patient D.B., individually or
16 collectively in that she: (1) failed to perform an opiate risk stratification; (2) failed to require
17 urine toxicology testing; (3) failed to perform CURES database queries; (4) failed to obtain or
18 document obtaining informed consent; (5) failed to have or document having a pain care
19 agreement; and (6) failed to take steps to avoid prescribing patient D.B. a narcotic medication in
20 combination with a benzodiazepine medication for almost two years.

21 **Patient L.B.**

22 37. In or around 2012, patient L.B. had her first appointment with Respondent. Patient
23 L.B. suffered from diabetes, polycystic ovarian syndrome, hypertension, obesity and chronic low
24 back pains. She also had several orthopedic injuries and required frequent visits with Loma Linda
25 orthopedics staff for management. She was also seen by pain management and received nerve
26 blocking procedures for pain management.

27 38. From 2012 to 2015, Respondent regularly prescribed patient L.B. tramadol, an opiate
28 pain medication. Respondent's chart for patient L.B. included no documentation of any

1 discussion with patient L.B. about the risks and benefits of narcotic pain medication. The chart
2 contained no signed informed consent and no signed pain care agreement.

3 39. From 2012 to 2015, Respondent regularly prescribed a 90-day supply of sleeping
4 medication zolpidem (Ambien) to patient L.B. Respondent often prescribed 20 mg of zolpidem
5 daily for 2 to 3 years, exceeding the FDA maximum recommended safe dosage which is 5 to 10
6 mg daily. Respondent prescribed a 90 day supply rather than 30 day supply so it would be less
7 expensive for patient L.B. However, the excessive quantity and dosage increased the patient's
8 risks of drug abuse and diversion. It increased the risk of patient L.B. becoming addicted and
9 tolerant to zolpidem.

10 40. Respondent was negligent in her care and treatment of patient L.B., individually or
11 collectively, in that she: (1) failed to document any discussion about the risks and benefits of
12 using pain medication; (2) risked side effects and potential tolerance-building by prescribing
13 patient L.B. 20 mg daily dosage of zolpidem for 2 to 3 years (long term); and (3) increased the
14 risks of drug abuse and diversion by providing patient L.B. 90-day supplies of zolpidem.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Incompetence)**

17 41. Respondent Frances Patricia Batin, M.D. is subject to disciplinary action under
18 section 2234, subdivision (d), in that she was incompetent in her care and treatment of patient
19 A.A. in that Respondent appeared to lack knowledge in the safe prescribing and monitoring of
20 opiate pain medications in chronic pain management. The circumstances are as follows:

21 42. The facts and circumstances alleged in paragraphs 11 through 27 above are
22 incorporated here as if fully set forth.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Adequate and Accurate Medical Records)**

25 43. Respondent Frances Patricia Batin, M.D. is subject to disciplinary action under
26 section 2266 of the Code in that she failed to maintain adequate and accurate records of the
27 medical services she provided to three patients. The circumstances are as follows:

28 44. The facts and circumstances alleged in paragraphs 11 through 27, 32 through 35 and

1 37 through 39 above are incorporated here as if fully set forth. Respondent failed to maintain
2 adequate records including signed informed consent forms and signed pain management
3 agreements. Respondent failed to document sufficient examinations of patient A.A. to justify the
4 excessive prescribing.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 45. Respondent is subject to disciplinary action under section 2234 of the Code in that
8 she engaged in unprofessional conduct. The circumstances are as follows:

9 46. The facts and circumstances alleged in paragraphs 10 through 44 above are
10 incorporated here as if fully set forth.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Medical Board of California issue a decision:


14 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 66244,
15 issued to Frances Patricia Batin, M.D.;

16 2. Revoking, suspending or denying approval of Frances Patricia Batin, M.D.'s authority
17 to supervise physician assistants, pursuant to section 3527 of the Code and advanced practice
18 nurses;

19 3. Ordering Frances Patricia Batin, M.D., if placed on probation, to pay the Board the
20 costs of probation monitoring; and

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: May 16, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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